

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Shannon, Esq. on February 13, 2012.

The application has been amended as follows:

- a. In claim 1, line 1, after "1." and before "Method", insert "A".
- b. In claim 1, line 1, change "Method" to method".
- c. In claim 1, line 2, after "production," and before "wherein" delete "the particles of which comprise free surface fat,".
- d. In claim 1, line 2, after "wherein" and before "lecithin", insert "the method comprises spraying a mixture of".
- e. In claim 1, line 3, after "or" and before "an", insert "in".
- f. In claim 1, line 3, after "liquid" and before "onto", delete "are sprayed".
- g. In claim 1, line 3, after "onto" and before "powder", delete "the".
- h. In claim 1, line 3, after "particles" and before "and" insert "which comprise free surface fat".
- i. In claim 1, lines 3-4, after "and" and before "subsequently" delete "dried".

- j. In claim 1, line 4, after “subsequently” and before “.” insert “drying said sprayed powder particles”
- k. In claim 2, line 1, after “2.” and before “Method”, insert “A”.
- l. In claim 2, line 1, change “Method” to method”.
- m. In claim 2, line 2, after “production,” and before “wherein” delete “the particles of which comprise free surface fat.”.
- n. In claim 2, line 2, after “wherein” and before “lecithin”, insert “the method comprises spraying a mixture of”.
- o. In claim 2, line 3, after “liquid” and before “onto”, delete “are sprayed”.
- p. In claim 2, line 3, after “onto” and before “powder”, delete “the”.
- q. In claim 2, line 3, after “particles” and before “the” insert “which comprise free surface fat”.
- r. In claim 2, line 4, after “and” and before “subsequently” delete “are dried”.
- s. In claim 2, line 4, after “subsequently” and before “.” insert “drying said sprayed powder particles”

***Allowable Subject Matter***

1. Prior to setting for the Reasons for Allowance, Applicant's Appeal Brief filed November 7, 2011 is acknowledged and Applicant's arguments are persuasive.
2. Claims 1, 2, 4 and 5 are allowed.
3. The claims are allowable over the "closest" prior art Cajigas US 4, 289,788 in view of Fitzpatrick GB 2,035,035 for the following reasons:

The present invention is drawn to a method for the instantisation of powders wherein powders containing free surface fat are sprayed with a solution of lecithin and alginate.

Cajigas teaches an instant powdered yoghurt composition in which dry ingredients, including lecithin and sodium alginate are combined to form a powder. Cajigas does not teach or suggest spraying a powder particle comprising free surface fat with a mixture of lecithin and alginate in water or an aqueous liquid as instantly claimed. Additionally Cajigas teaches that sodium alginate was used as a thickener in the food composition. Fitzpatrick teaches the concept of spraying compositions of lecithin and water onto milk powder as lecithin was known to cause viscosity problems. Fitzpatrick does not teach the spray composition as including sodium alginate and as the solution of Fitzpatrick was utilized to overcome viscosity problems and as sodium alginate was taught by Cajigas to thicken, the combination of lecithin and sodium alginate in liquid for spraying onto a powder particle with surface fat would not have been obvious. The prior art does not teach or suggest the instantly claimed limitations.

Given that alginate was known as thickener and emulsifier, as stated by Cajigas, the use of the gum in instant powders would not have been obvious to one of ordinary skill in the art as it

was not beneficial to make powders viscous. Therefore, it is clear that Cajigas in view of Fitzpatrick do not disclose or suggest the present invention.

4. In light of the above, it is clear that the rejections of record are untenable and thus, the present claims are passed to issue.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LELA S. WILLIAMS whose telephone number is (571)270-1126. The examiner can normally be reached on Monday to Thursday from 7:30am-5pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Humera Sheikh can be reached on 571-272-0604. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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